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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,654	04/14/2006	Hans Binder	4319.GLE.PT	2298

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EXAMINER	
VANTERPOOL, LESTER L	
ART UNIT	PAPER NUMBER
3782	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/575,654	BINDER ET AL.	
	Examiner	Art Unit	
	LESTER L. VANTERPOOL	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 March 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *34-53* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *34-53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 24, 2009 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 34, 35, 37, 38, 39, 40, 41, 42, 44, 45, 46, 48, 49, 50 & 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Bott (U.S. Patent Number4277009).

Bott discloses at least one rail (54 & 56) extending essentially at the distance form the roof surface of the vehicle (12) and at least two supports (68) at the ends of the rail (54, 56 & 58) to attach the roof rack to the vehicle roof (12), wherein the rail (54 & 56) is shaped to have a curved (58) in the end areas (See Figure 4) and wherein the area of each curve is held from below by the support (68), wherein the top surface of

the support (68), when viewed in cross-section, forms the flat supporting surface (Figure 7) for the matching surface on the rail (54) (See Figure 5), wherein the matching surface of the rail (54) is flat when viewed in cross-section (See Figure 5), and wherein the underside of the rail (54) has the recess (See Figure 5) in the area of the curve to locate the support (68).

Regarding claim 35, Bott discloses the rail (56) being tubular, and wherein the roof rack further comprises the projection (72) which extends into the end of the rail (54), and wherein, the projection (72) has the shape which corresponds to the interior of the rail (54) so as to engage the interior of the rail (See Figure 5).

Regarding claim 37, Bott discloses the mounting plate (16) attaches to the bottom of the support (68) (See Figures 4 & 5).

Regarding claim 38, Bott discloses the rail (54 & 56) extending at the distance from the roof of the vehicle (12); the curved portion formed in the end area of the rail (54) (See Figure 4); and the support (68) attached to the curved portion (58) and configured for attaching the rail (54) to the roof of the vehicle (12), the support (68) having the upper surface which is curved so as to be complementary to the lower surface of the curved portion formed in the end area of the rail (See Figure 5).

Regarding claim 39, Bott discloses the flat on the bottom and configured for attachment to the roof of the vehicle (12) (See Figures 4 & 5).

Regarding claim 40, Bott discloses the rail (54) has the recess (See Figure 5) formed in the underside of the curved portion (58) and wherein the support (68) is disposed in the recess (See Figure 5).

Regarding claim 41, Bott discloses the bottom of the curved portion (58) and the top of the support (68) are flat in horizontal cross-section (See Figures 4, 5 & 7).

Regarding claim 42, Bott discloses the rail (54) is tubular so as to have the hollow interior, and wherein the roof rack comprises the projection (72) which is complementary in shape to the interior of the rail and which is disposed in the end of the rail (See Figures 4 & 5).

Regarding claim 44, Bott discloses the bottom of the curved portion (58) and the top of the support (68) have the curved shape in longitudinal cross-section (See Figure 7).

Regarding claim 45, Bott discloses the rail (54) has the step formed on the underside (See Figure 5) and wherein the support (68) is disposed adjacent the step such that the step locates the support (68).

Regarding claim 46, Bott discloses the mounting plate (16) located between the support (68) and the roof of the vehicle (12) (See Figure 4), and wherein the end of the rail (54) is disposed adjacent the mounting plate (16).

Regarding claim 48, Bott discloses the rail (54 & 56) extending at a distance from the vehicle, wherein the end of the rail has the curved portion (58) formed therein such that the end of the rail curves towards the surface of the vehicle (12) (See Figure 4);

the support (68) attached to the underside of the curved portion of the rail (58), the support (68) having the curved upper surface which is complementary to the lower surface of the curved portion (58) and having the lower surface configured for attachment to the vehicle (12) (See Figures 4 & 5).

Regarding claim 49, Bott discloses the rail (54) has the recess (See Figure 5) formed in the underside of the curved portion (58), and wherein the support (68) is located in the recess (See Figure 5).

Regarding claim 50, Bott discloses the rail (54) has the step formed in the underside of the curved portion (58) (See Figure 5), and wherein the support (68) is disposed against the step (See Figure 5).

Regarding claim 53, Bott discloses the bottom of the curved portion (58) and the top of the recess are curved in longitudinal cross-section and flat in horizontal cross section (See Figure 5).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 36, 43, 47, 51 & 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bott (U.S. Patent Number 4277009) in view of Stapleton (U.S. Patent Number 7204396).

Bott discloses the roof rack further comprises the mounting plate (16) and wherein the projection (72) extends upwardly from the support (68) (See Figure 4).

However, Bott does not disclose the projection extending upwardly from the mounting plate.

Stapleton teaches the projection (66) extending upwardly from the mounting plate (26) (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the projection extending upwardly from the mounting plate as taught by Stapleton with the roof rack of Bott in order to enhance anchoring and reduce excess movement.

Regarding claim 43, Bott discloses the mounting plate (16) attached to the bottom of the support (68) (See Figure 4).

However, Bott does not disclose the projection is disposed on the mounting plate.

Stapleton teaches the projection (66) is disposed on the mounting plate (26) (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the projection disposed on the mounting plate as taught by Stapleton with the roof rack of Bott in order to enhance anchoring and reduce excess movement.

Regarding claim 47, Bott does not disclose the mounting plate has the projection disposed thereon such that he projection extends into hollow interior of the end of the rail.

Stapleton teaches the mounting plate (26) having the projection (66) disposed thereon such that the projection extends into hollow interior of the end of the rail (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the mounting plate has the projection disposed thereon such that he projection extends into hollow interior of the end of the rail as taught by Stapleton with the roof rack of Bott in order to enhance anchoring and reduce excess movement.

Regarding claim 51, Bott discloses the mounting plate (16) attached to the bottom of the support (68) (See Figure 4).

However, Bott does not disclose the mounting plate has the projection configured for engaging the recess in the end of the rail.

Stapleton teaches the mounting plate (26) having the projection (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the mounting plate having the projection as taught by Stapleton with the roof rack of Bott in order to enhance anchoring and reduce excess movement.

Regarding claim 52, Bott discloses the rail (56) being tubular, and wherein the roof rack has the mounting plate (16) attached to the bottom of the support (68) (See Figure 4).

However, Bott does not disclose the mounting plate having the projection extending upwardly therefrom having the shape which corresponds to the interior of the rail.

Stapleton teaches the mounting plate (26) having the projection extending upwardly therefrom having the shape which corresponds to the interior of the rail.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the projection extending upwardly from the mounting plate

as taught by Stapleton with the roof rack of Bott in order to enhance anchoring and reduce excess movement.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LESTER L. VANTERPOOL whose telephone number is (571)272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. L. V./
Examiner, Art Unit 3782

/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782